

REMARKS

Claims 1-12 are currently pending in the present application. Claims 2-9, 11, and 12 have been withdrawn from further consideration by the Examiner. Claims 1-3 and 10-12 are independent. In light of the remarks contained herein, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections.

In the outstanding Official Action, the Examiner rejected claims 1 and 10 under 35 USC §103(a) as being unpatentable over Kikuzawa et al. (USP 5,684,919) in view of Ejima et al. (USP 5,070,405). Applicant respectfully traverses this rejection.

Claim Rejections – 35 USC §103

In response to Applicant's arguments, the Examiner states that Applicant's arguments filed March 2, 2005, with respect to the rejection of claims 1 and 10 under 35 USC §103(a) have been fully considered and are persuasive. Based upon these persuasive arguments, the Examiner has withdrawn the outstanding rejections. However, the Examiner appears to rely on Ejima et al. to teach the same claim elements in the previous rejection which Applicant argued were improper. Specifically, in Applicant's reply filed March 2, 2005, Applicant argued that Ejima et al. fails to teach or suggest an image file create device for creating an image file containing the image data outputted from said imaging device and data representing the photometry values for each of the sections outputted from said photometry device.

Paragraph 1 of the outstanding Official Action, the Examiner agrees with Applicant's arguments and states that these arguments are persuasive.

However, in the outstanding Official Action, the Examiner rejects claim 1 admitting that Kikuzawa et al. fails to teach a photometry device for performing photometry for each of the sections obtained by dividing an imaging area into a plurality of sections to output photometry values. As such, as the Examiner has admitted that Applicant's previous arguments were persuasive, Applicant maintains that the newly cited art, either alone or in combination, fails to render the pending claims obvious.

Should the Examiner maintain his rejection, Applicant respectfully requests that the Examiner properly respond to Applicant's arguments included herein and included in the Reply filed March 2, 2005, directed to the deficiencies of the teachings of Ejima et al., by withdrawing the finality of the previous rejection and issuing a new Official Action so that Applicant can properly respond to the Examiner's rejection.

Applicant maintains that the teachings of the cited reference, either alone or in combination, fail to teach or suggest all the claimed elements. The Examiner attention is respectfully directed to Applicant's arguments submitted in the Reply filed March 2, 2005, directed to the teachings of Ejima et al. It is respectfully submitted that Kikuzawa et al. fails to teach or suggest this feature as Kikuzawa et al. is only directed to control the video signals and image enhancement on a frame by frame basis. As such, Kikuzawa et al. does not appear to be related to the use of divisional photometry to create an image file containing image data and data representing photometry values for each of the sections of a single image file. As such, the Examiner has not identified an image file create device in either of the references, and Applicant maintains that neither of these references teach or suggest this claimed element. Kikuzawa et al. further would not incorporate the divisional photometry, e.g., the light metering of Ejima et al.

for the portions of an image, as Kikuzawa et al.'s directed at the recordation and control of video signals. The image information recorded with each frame in Kikuzawa et al. is actually "camera information" that does not appear to contain any image information other than on a frame by frame basis related to camera settings at the time an individual image frame is imaged and recorded.

As such, Applicant maintains that neither of the references, either alone or in combination, teach or suggest all the claimed elements. Further, Applicant maintains that one of ordinary skill in the art would not be motivated to combine the teachings of Kikuzawa et al. with the features of Ejima et al. as asserted. Finally, the resulting combination still would not include an image file create device for creating an image file containing the image data outputted from the imaging device and data representing the photometry values for each of the sections outputted from the photometry device and the recording device. For all the reasons set forth above, Applicant maintains that claim 1 is patentable over the references as cited. As such, it is respectfully requested that the outstanding rejection be withdrawn.

As claim 10 contains elements similar to those discussed above, with regard to claim 1, Applicant maintains that claim 10 is patentable over the references as cited for the reasons set forth above with regard to claim 1 and, should the Examiner maintain his rejection of the claim, Applicant respectfully requests that the Examiner withdraw the finality of the previous Office Action in order to properly respond to Applicant's arguments included in the Reply filed March 2, 2005, and issue a proper new Official Action.

Conclusion

In the event there are any matters remaining in this application, the Examiner is invited to contact Catherine M. Voisinet, Registration No. 52,327 at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted, #40,439

By 

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